

Example 3. An IRS employee is examining a joint return of a husband and wife, who recently divorced. From reading the court divorce file, the IRS employee learns that the divorce was acrimonious and that the ex-husband once violated a restraining order issued to protect the ex-wife. This information provides good cause for the IRS employee to believe that reporting contacts which might disclose the ex-wife's location may cause reprisal against any person. Therefore, when the IRS employee contacts the ex-wife's new employer to verify salary information provided by the ex-wife, the IRS employee has good cause not to report that contact to the ex-husband, regardless of whether the new employer expresses concern about reprisal against it or its employees.

(4) *Pending criminal investigations*—(i) *IRS criminal investigations.* Section 7602(c) does not apply to contacts made during an investigation, or inquiry to determine whether to open an investigation, when the investigation or inquiry is—

(A) Made against a particular, identified taxpayer for the primary purpose of evaluating the potential for criminal prosecution of that taxpayer; and

(B) Made by an IRS employee whose primary duties include either identifying or investigating criminal violations of the law.

(ii) *Other criminal investigations.* Section 7602(c) does not apply to contacts which, if reported to the taxpayer, could interfere with a known pending criminal investigation being conducted by law enforcement personnel of any local, state, Federal, foreign or other governmental entity.

(5) *Governmental entities.* Section 7602(c) does not apply to any contact with any office of any local, state, Federal or foreign governmental entity except for contacts concerning the taxpayer's business with the government office contacted, such as the taxpayer's contracts with or employment by the office. The term *office* includes any agent or contractor of the office acting in such capacity.

(6) *Confidential informants.* Section 7602(c) does not apply when the employee making the contact has good cause to believe that providing either the pre-contact notice or the record of the person contacted would identify a confidential informant whose identity would be protected under section 6103(h)(4).

(7) *Nonadministrative contacts*—(i) *Explanation.* Section 7602(c) does not apply to contacts made in the course of a pending court proceeding.

(ii) *Examples.* The following examples illustrate this paragraph (f)(7):

Example 1. An attorney for the Office of Chief Counsel needs to contact a potential witness for an upcoming Tax Court proceeding involving the 1997 and 1998 taxable years of the taxpayer. Section 7602(c) does not apply because the contact is being made in the course of a pending court proceeding.

Example 2. While a Tax Court case is pending with respect to a taxpayer's 1997 and 1998 income tax liabilities, a revenue agent is conducting an examination of the taxpayer's excise tax liabilities for the fiscal year ending 1999. Any third-party contacts made by the revenue agent with respect to the excise tax liabilities would be subject to the requirements of section 7602(c) because the Tax Court proceeding does not involve the excise tax liabilities.

Example 3. A taxpayer files a Chapter 7 bankruptcy petition and receives a discharge. A revenue officer contacts a third party in order to determine whether the taxpayer has any exempt assets against which the IRS may take collection action to enforce its federal tax lien. At the time of the contact, the bankruptcy case has not been closed. Although the bankruptcy proceeding remains pending, the purpose of this contact relates to potential collection action by the IRS, a matter not before or related to the bankruptcy court proceeding.

(g) *Effective Date.* This section is applicable on December 18, 2002.

[T.D. 9028, 67 FR 77421, Dec. 18, 2002]

§ 301.7603-1 Service of summons.

(a) *In general.* A summons issued under section 6420(e)(2), 6421(f)(2), 6424(d)(2), 6427(e)(2), or 7602 shall be served by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode. The certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

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(b) *Persons who may serve a summons.* The officers and employees of the Internal Revenue Service whom the Commissioner has designated to carry out the authority given him by § 301.7602-1(b) to issue a summons are authorized to serve a summons issued under section 6420(e)(2), 6421(f)(2), 6424(d)(2), 6427(e)(2), or 7602.

[T.D. 7188, 37 FR 12796, June 29, 1972, as amended by T.D. 7297, 38 FR 34803, Dec. 19, 1973]

§ 301.7604-1 Enforcement of summons.

(a) *In general.* Whenever any person summoned under section 6420(e)(2), 6421(f)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, application may be made to the judge of the district court or to a U.S. commissioner for the district within which the person so summoned resides or is found for an attachment against him as for a contempt.

(b) *Persons who may apply for an attachment.* The officers and employees of the Internal Revenue Service whom the Commissioner has designated to carry out the authority given him by § 301.7602-1(b) to issue a summons are authorized to apply for an attachment as provided in paragraph (a) of this section.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7297, 38 FR 34803, Dec. 19, 1973]

§ 301.7605-1 Time and place of examination.

(a) *Time and place of examination to be reasonable—(1) In general.* The time and place of examination pursuant to the provisions of sections 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7602 of the Internal Revenue Code are to be fixed by an officer or employee of the Internal Revenue Service, and officers and employees are to endeavor to schedule a time and place that are reasonable under the circumstances. This section sets forth general criteria for the Service to apply in determining whether a particular time and place for an examination are reasonable under the circumstances. Officers and employees should exercise sound judgment in applying these criteria to the circumstances at hand and should balance

convenience of the taxpayer with the requirements of sound and efficient tax administration.

(2) *International examinations.* Except for the provisions of paragraph (b)(2) of this section, this section does not apply to examinations that fall under the jurisdiction of the Office of the Assistant Commissioner (International).

(3) *Criminal investigations.* Except for the provisions of paragraph (b)(2) of this section, this section does not apply to criminal investigations.

(b) *Time of examination—(1) Date and time of examination.* It is reasonable for the Service to schedule the day (or days) for an examination during a normally scheduled workday (or workdays) of the Service, during the Service's normal business hours. It is reasonable for the Service to schedule examinations throughout the year, without regard to seasonal fluctuations in the businesses of particular taxpayers or their representatives. However, the Service will work with taxpayers or their representatives to try to minimize any adverse effects in scheduling the date and time of an examination.

(2) *Date of appearance when summons is used.* If a summons is issued under authority of section 7602(a)(2) of the Internal Revenue Code, or under the corresponding authority of sections 6420(e)(2), 6421(g)(2), or 6427(j)(2), the date fixed for appearance before an officer or employee of the Service must be no less than 10 days from the date of the summons.

(c) *Type of examination—(1) In general.* The Service will determine whether an examination will be an office examination (*i.e.*, an examination conducted at a Service office) or a field examination (*i.e.*, an examination conducted at the taxpayer's residence or place of business, or some other location that is not a Service office), based upon the complexity of the return and which form of examination will be more conducive to effective and efficient tax administration.

(2) *Office examination held in location other than Service office in case of clear need.* The Service will grant a request to hold an office examination at a location other than a Service office in a case of clear need, such as when it would be unreasonably difficult for the